

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3232
OFFERED BY MR. RUSH

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Travel Promotion Act of 2008”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. The Corporation for Travel Promotion.
- Sec. 3. Accountability measures.
- Sec. 4. Matching public and private funding.
- Sec. 5. Travel Promotion Fund fees.
- Sec. 6. Investment of Funds.
- Sec. 7. Prohibition on use of funds.
- Sec. 8. Amendments to the International Travel Act of 1961.
- Sec. 9. Definitions.
- Sec. 10. G.A.O. study

6 SEC. 2. THE CORPORATION FOR TRAVEL PROMOTION.

7 (a) ESTABLISHMENT.—The Corporation for Travel
8 Promotion is established as a nonprofit corporation. The
9 Corporation shall not be an agency or establishment of
10 the United States Government. The Corporation shall be
11 subject to the provisions of the District of Columbia Non-
12 profit Corporation Act (sec. 29–301.01 et seq., D.C. Offi-
13 cial Code), to the extent that such provisions are con-

1 sistent with this section, and shall have the powers con-
2 ferred upon a nonprofit corporation by that Act to carry
3 out its purposes and activities.

4 (b) BOARD OF DIRECTORS.—

5 (1) IN GENERAL.—The Corporation shall have
6 a board of directors of 15 members, appointed by
7 the Secretary of Commerce after consultation with
8 the Secretaries of Homeland Security, State, and
9 Education, each of whom is a United States citizen,
10 and of whom—

11 (A) one shall have appropriate expertise
12 and experience in the hotel accommodations
13 sector;

14 (B) one shall have appropriate expertise
15 and experience in the restaurant sector;

16 (C) one shall have appropriate expertise
17 and experience in the retail sector, or in asso-
18 ciations representing that sector;

19 (D) one shall have appropriate expertise
20 and experience in the small business sector, or
21 in associations representing that sector;

22 (E) one shall have appropriate expertise
23 and experience in the advertising sector;

24 (F) one shall have appropriate expertise
25 and experience in the attractions sector;

1 (G) one shall have appropriate expertise
2 and experience in the recreation sector;

3 (H) one shall have appropriate expertise
4 and experience in the research, development, or
5 manufacturing sector;

6 (I) one shall have appropriate expertise
7 and experience in the financial services sector;

8 (J) one shall have appropriate expertise
9 and experience in the passenger air sector;

10 (K) one shall have appropriate expertise
11 and experience in the car rental sector;

12 (L) one shall have appropriate expertise
13 and experience as an official at the state and
14 municipal level, or in associations of such offi-
15 cials;

16 (M) one shall have appropriate expertise
17 and experience in the higher education sector
18 and in coordinating international scholarly con-
19 ferences in the United States;

20 (N) one shall have appropriate expertise
21 and experience in immigration law and policy,
22 including visa requirements and United States
23 entry procedures; and

24 (O) one shall have appropriate expertise in
25 matters relating to homeland security policy, in-

1 cluding border and travel security and facilita-
2 tion programs.

3 (2) INCORPORATION.—The members of the ini-
4 tial board of directors shall serve as incorporators
5 and shall take whatever actions are necessary to es-
6 tablish the Corporation under the District of Colum-
7 bia Nonprofit Corporation Act (sec. 29–301.01 et
8 seq.).

9 (3) TERM OF OFFICE.—The term of office of
10 each member of the board appointed by the Sec-
11 retary shall be 3 years, except that, of the members
12 first appointed—

13 (A) 3 shall be appointed for terms of 1
14 year;

15 (B) 4 shall be appointed for terms of 2
16 years; and

17 (C) 4 shall be appointed for terms of 3
18 years.

19 (4) VACANCIES.—Any vacancy in the board
20 shall not affect its power, but shall be filled in the
21 manner required by this section. Any member whose
22 term has expired may serve until the member's suc-
23 cessor has taken office, or until the end of the cal-
24 endar year in which the member's term has expired,
25 whichever is earlier. Any member appointed to fill a

1 vacancy occurring prior to the expiration of the term
2 for which that member's predecessor was appointed
3 shall be appointed for the remainder of the prede-
4 cessor's term. No member of the board shall be eligi-
5 ble to serve more than 2 consecutive full terms.

6 (5) ELECTION OF CHAIRMAN AND VICE CHAIR-
7 MAN.—Members of the board shall annually elect
8 one of their members to be chairman and elect 1 or
9 more of their members as a vice chairman or vice
10 chairmen.

11 (6) STATUS AS FEDERAL EMPLOYEES.—Not-
12 withstanding any provision of law to the contrary,
13 no member of the board may be considered to be a
14 Federal employee of the United States by virtue of
15 his or her service as a member of the board.

16 (7) COMPENSATION; EXPENSES.—No member
17 of the board shall receive any compensation from the
18 Federal Government or the Corporation by virtue of
19 his or her service as a member of the board. Each
20 member of the board shall be paid actual travel ex-
21 penses and per diem in lieu of subsistence expenses
22 when away from his or her usual place of residence,
23 in accordance with section 5703 of title 5, United
24 States Code.

25 (c) OFFICERS AND EMPLOYEES.—

1 (1) IN GENERAL.—The Corporation shall have
2 a President, and such other officers as may be
3 named and appointed by the board for terms and at
4 rates of compensation fixed by the board. No indi-
5 vidual other than a citizen of the United States may
6 be an officer of the Corporation. The corporation
7 may hire and fix the compensation of such employ-
8 ees as may be necessary to carry out its purposes.
9 No officer or employee of the Corporation may re-
10 ceive any salary or other compensation (except for
11 compensation for services on boards of directors of
12 other organizations that do not receive funds from
13 the Corporation, on committees of such boards, and
14 in similar activities for such organizations) from any
15 sources other than the Corporation for services ren-
16 dered during the period of his or her employment by
17 the Corporation. Service by any officer on boards of
18 directors of other organizations, on committees of
19 such boards, and in similar activities for such orga-
20 nizations shall be subject to annual advance ap-
21 proval by the board and subject to the provisions of
22 the Corporation's Statement of Ethical Conduct. All
23 officers and employees shall serve at the pleasure of
24 the board.

1 (2) NONPOLITICAL NATURE OF APPOINT-
2 MENT.—No political test or qualification shall be
3 used in selecting, appointing, promoting, or taking
4 other personnel actions with respect to officers,
5 agents, or employees of the Corporation.

6 (d) NONPROFIT AND NONPOLITICAL NATURE OF
7 CORPORATION.—

8 (1) STOCK.—The Corporation shall have no
9 power to issue any shares of stock, or to declare or
10 pay any dividends.

11 (2) PROFIT.—No part of the income or assets
12 of the Corporation shall inure to the benefit of any
13 director, officer, employee, or any other individual
14 except as salary or reasonable compensation for
15 services.

16 (3) POLITICS.—The Corporation may not con-
17 tribute to or otherwise support any political party or
18 candidate for elective public office.

19 (4) SENSE OF CONGRESS REGARDING LOBBYING
20 ACTIVITIES.—It is the sense of Congress that the
21 Corporation established under this Act should not
22 engage in any lobbying activities with any employee
23 or branch of the Federal Government in favor of or
24 in opposition to any political issue.

25 (e) DUTIES AND POWERS.—

1 (1) IN GENERAL.—The Corporation shall de-
2 velop and execute a plan to—

3 (A) provide useful information to foreign
4 tourists, business people, students, scholars, sci-
5 entists and others interested in traveling to the
6 United States, including the distribution of ma-
7 terial provided by the Federal Government con-
8 cerning entry requirements, required docu-
9 mentation, fees, and processes, to prospective
10 travelers, travel agents, tour operators, meeting
11 planners, foreign governments, travel media and
12 other international stakeholders;

13 (B) identify and address perceptions in
14 other countries regarding United States entry
15 policies that tend to limit attempts to travel to
16 the United States;

17 (C) maximize the economic and diplomatic
18 benefits of travel to the United States by pro-
19 moting the United States of America to world
20 travelers through the use of, but not limited to,
21 all forms of advertising, outreach to trade
22 shows, and other appropriate promotional ac-
23 tivities; and

1 (D) identify opportunities and strategies to
2 promote tourism to rural and urban areas
3 equally.

4 (2) SPECIFIC POWERS.—In order to carry out
5 the purposes of this section, the Corporation may—

6 (A) obtain grants from and make contracts
7 with individuals and private companies, State,
8 and Federal agencies, organizations, and insti-
9 tutions;

10 (B) hire or accept the voluntary services of
11 consultants, experts, advisory boards, and pan-
12 els to aid the Corporation in carrying out its
13 purposes; and

14 (C) take such other actions as may be nec-
15 essary to accomplish the purposes set forth in
16 this section.

17 (f) OPEN MEETINGS.—Meetings of the board of di-
18 rectors of the Corporation, including any committee of the
19 board, shall be open to the public. The board may, by ma-
20 jority vote, close any such meeting only for the time nec-
21 essary to preserve the confidentiality of commercial or fi-
22 nancial information that is privileged or confidential, to
23 discuss personnel matters, or to discuss legal matters af-
24 fecting the Corporation, including pending or potential liti-
25 gation.

1 (g) MAJOR CAMPAIGNS.—The board may not author-
2 ize the Corporation to obligate or expend more than
3 \$25,000,000 on any advertising campaign, promotion, or
4 related effort unless—

5 (1) the obligation or expenditure is approved by
6 an affirmative vote of at least $\frac{2}{3}$ of the members of
7 the board present at the meeting;

8 (2) at least 8 members of the board are present
9 at the meeting at which it is approved; and

10 (3) each member of the board has been given
11 at least 3 days advance notice of the meeting at
12 which the vote is to be taken and the matters to be
13 voted upon at that meeting.

14 (h) FISCAL ACCOUNTABILITY.—

15 (1) FISCAL YEAR.—The Corporation shall es-
16 tablish as its fiscal year the 12-month period begin-
17 ning on October 1.

18 (2) BUDGET.—The Corporation shall adopt a
19 budget for each fiscal year.

20 (3) ANNUAL AUDITS.—The Corporation shall
21 engage an independent accounting firm to conduct
22 an annual financial audit of the Corporation's oper-
23 ations and shall publish the results of the audit.

1 **SEC. 3. ACCOUNTABILITY MEASURES.**

2 (a) OBJECTIVES.—The Board shall establish annual
3 objectives for the Corporation for each fiscal year subject
4 to approval by the Secretary, in consultation with the Sec-
5 retary of Homeland Security and the Secretary of State.
6 The Corporation shall establish a marketing plan for each
7 fiscal year not less than 60 days before the beginning of
8 that year and provide a copy of the plan, and any revisions
9 thereof, to the Secretary.

10 (b) BUDGET.—The board shall transmit a copy of the
11 Corporation's budget for the forthcoming fiscal year to the
12 Secretary not less than 60 days before the beginning of
13 each fiscal year, together with an explanation of any ex-
14 penditure provided for by the budget in excess of
15 \$5,000,000 for the fiscal year. The Corporation shall
16 make a copy of the budget and the explanation available
17 to the public and shall provide public access to the budget
18 and explanation on the Corporation's website.

19 (c) ANNUAL REPORT TO CONGRESS.—The Corpora-
20 tion shall submit an annual report for the preceding fiscal
21 year to the Secretary of Commerce and the Secretary of
22 Homeland Security for transmittal to Congress on or be-
23 fore the 15th day of May of each year. The report shall
24 include—

1 (1) a comprehensive and detailed report of the
2 Corporation's operations, activities, financial condi-
3 tion, and accomplishments under this Act;

4 (2) a comprehensive and detailed inventory of
5 amounts obligated or expended by the Corporation
6 during the preceding fiscal year;

7 (3) a detailed description of each in-kind con-
8 tribution, its fair market value, the individual or or-
9 ganization responsible for contributing, its specific
10 use, and a justification for its use within the context
11 of the Corporation's mission;

12 (4) an objective and quantifiable measurement
13 of its progress, on an objective-by-objective basis, in
14 meeting the objectives established by the board;

15 (5) an explanation of the reason for any failure
16 to achieve an objective established by the board, and
17 any revisions or alterations to the Corporation's ob-
18 jectives under subsection (a);

19 (6) a comprehensive and detailed report of the
20 Corporation's operations and activities to promote
21 tourism in rural and urban areas; and" and renum-
22 ber the succeeding paragraph accordingly; and

23 (7) such recommendations as the Corporation
24 deems appropriate.

1 **SEC. 4. MATCHING PUBLIC AND PRIVATE FUNDING.**

2 (a) ESTABLISHMENT OF TRAVEL PROMOTION
3 FUND.—There is hereby established in the Treasury a
4 fund which shall be known as the “Travel Promotion
5 Fund”.

6 (b) FUNDING.—

7 (1) FIRST YEAR.—For fiscal year 2009, the
8 Secretary of the Treasury, not earlier than October
9 1, 2008, and not before the Secretary has appointed
10 all members of the Corporation’s board of directors,
11 may transfer to the Corporation such sums as may
12 be necessary, but not to exceed \$10,000,000, subject
13 to the availability of appropriations to carry out this
14 section to cover its initial expenses and activities
15 under this Act. At the earliest practicable date, the
16 Corporation shall reimburse the Treasury any such
17 amounts borrowed from the Treasury, with at least
18 50 percent reimbursed before October 1, 2011, and
19 the remainder reimbursed before October 1, 2013.
20 Reimbursement shall include interest at a rate deter-
21 mined by the Treasury taking into consideration
22 current market yields on outstanding Treasury secu-
23 rities of comparable maturities and including any
24 additional charges determined by the Secretary of
25 the Treasury to cover any probable losses and rea-
26 sonable administrative costs. The Secretary of the

1 Treasury shall determine and assess penalties to be
2 applied for late payments of principal or interest and
3 other Federal credit terms designed to minimize
4 Federal exposure to loss, consistent with the Federal
5 Credit Reform Act and other applicable Federal
6 credit policies.

7 (2) SUBSEQUENT YEARS.—For each of fiscal
8 years 2010 through 2018, from amounts deposited
9 in the general fund of the Treasury during the pre-
10 ceding fiscal year from fees under section 5, the Sec-
11 retary of the Treasury shall transfer not more than
12 \$100,000,000 to the Fund, which shall be made
13 available to the Corporation, subject to subsections
14 (c), (d), and (e), to carry out its functions under this
15 Act. Transfers shall be made by the Secretary of the
16 Treasury at least quarterly on the basis of estimates
17 by the Secretary of the Treasury, determined in con-
18 sultation with the Board, of contributions made to
19 the Corporation by non-Federal sources, and proper
20 adjustments shall be made in amounts subsequently
21 transferred to the extent prior estimates were in ex-
22 cess or less than the amounts required to be trans-
23 ferred.

24 (c) MATCHING REQUIREMENT.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury shall make available to the Corporation from the
3 Travel Promotion Fund—

4 (A) for fiscal year 2010, twice the amount
5 that will be collected from non-Federal sources
6 by the Corporation pursuant to section 4(b)(2)
7 of this Act and not to exceed \$100,000,000;
8 and

9 (B) for subsequent fiscal years, an amount
10 equal to the amount that will be collected from
11 non-Federal sources by the Corporation pursu-
12 ant to section 4(b)(2) of this Act and not to ex-
13 ceed \$100,000,000.

14 (2) GOODS AND SERVICES.—For the purpose of
15 determining the amount of matching funds, other
16 than money, available to the Corporation—

17 (A) the fair market value, as determined
18 by the Corporation, of goods and services (in-
19 cluding advertising) contributed to the Corpora-
20 tion for use under this Act may be included in
21 the determination; but

22 (B) the fair market value of such goods
23 and services may not account for more than 65
24 percent of the matching requirement for the
25 Corporation in any fiscal year.

1 (3) RIGHT OF REFUSAL.—The Corporation may
2 decline to accept any contribution in kind that it de-
3 termines to be inappropriate, not useful, or commer-
4 cially worthless.

5 (d) GRANT OFFSET.—For a given fiscal year, the
6 Secretary of the Treasury shall reduce the total amount
7 of funding to be transferred to the Corporation from the
8 Travel Promotion Fund by the amount of grants received
9 by the Corporation pursuant to section 2(e)(2)(A) to be
10 used during that fiscal year.

11 (e) LIMITATION.—The Corporation shall not expend
12 funds or obligate to expend funds that will exceed total
13 amounts received by the Corporation for a given fiscal
14 year.

15 **SEC. 5. TRAVEL PROMOTION FUND FEES.**

16 Section 217(h)(3)(B) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1187(h)(3)(B)) is amended—

18 (1) in clause (i), by striking “; and” and insert-
19 ing a semicolon;

20 (2) in clause (ii), by striking the period and in-
21 serting “; and”; and

22 (3) by adding at the end the following:

23 “(iii) set for an amount that includes
24 an additional amount of not less than \$10
25 above the amount set under clause (i).

1 The additional amount required under clause
2 (iii) shall be transferred to the Treasury for the
3 purpose of offsetting appropriations made to
4 the Corporation for Travel Promotion estab-
5 lished in section 2 of the Travel Promotion Act
6 of 2008, according to the requirements of sec-
7 tion 4 of such Act. Such additional amount may
8 be reduced if the secretary of the Treasury de-
9 termines that the additional amount is not nec-
10 essary to ensure that the Corporation is fully
11 funded.”.

12 **SEC. 6. INVESTMENT OF FUNDS.**

13 Pending disbursement pursuant to a program, plan,
14 or project, the Corporation may invest funds received by
15 the Corporation only in obligations of the United States
16 or any agency thereof, in general obligations of any State
17 or any political subdivision thereof, in any interest-bearing
18 account or certificate of deposit of a bank that is a mem-
19 ber of the Federal Reserve System, or in obligations fully
20 guaranteed as to principal and interest by the United
21 States. The Secretary of the Treasury shall reduce the
22 total amount of funding for a given fiscal year to be trans-
23 ferred from the Travel Promotion Fund to the Corpora-
24 tion by the amount of interest earned by the Corporation

1 as a result of its investments pursuant to this section for
2 the preceding fiscal year.

3 **SEC. 7. PROHIBITION ON USE OF FUNDS.**

4 No funds raised by the Treasury Department's Trav-
5 el Promotion Fund or the Corporation for Travel Pro-
6 motion may be used to directly promote or advertise a spe-
7 cific corporation in lieu of that corporation's own adver-
8 tisements or promotion efforts.

9 **SEC. 8. AMENDMENTS TO THE INTERNATIONAL TRAVEL**
10 **ACT OF 1961.**

11 (a) POWERS AND DUTIES OF SECRETARY OF COM-
12 MERCE.—Section 201 of the International Travel Act of
13 1961 (22 U.S.C. 2122) is amended—

14 (1) in the first sentence of the matter preceding
15 paragraph (1)—

16 (A) by striking “and by the United States
17 National Tourism Organization Act of 1996”;
18 and

19 (B) by striking “United States National
20 Tourism Organization” and inserting “Corpora-
21 tion for Travel Promotion (established by sec-
22 tion 3 of the Travel Promotion Act of 2007)”;

23 (2) in paragraph (4), by striking “United
24 States National Tourism Organization” and insert-
25 ing “Corporation for Travel Promotion”; and

1 (3) by adding at the end the following:

2 “Such plan may not include a comprehensive international
3 advertising campaign relating to critical tourism func-
4 tions.”.

5 (b) TOURISM POLICY COUNCIL.—

6 (1) MEMBERSHIP.—Subsection (b) of section
7 301 of the International Travel Act of 1961 (22
8 U.S.C. 2124) is amended—

9 (A) by striking paragraphs (8) through
10 (10);

11 (B) by redesignating paragraph (11) as
12 paragraph (13);

13 (C) by inserting after paragraph (7) the
14 following new paragraphs:

15 “(8) The Secretary of Homeland Security.

16 “(9) The Commissioner of U.S. Customs and
17 Border Protection of the Department of Homeland
18 Security.

19 “(10) The Assistant Secretary of U.S. Customs
20 and Immigration Enforcement of the Department of
21 Homeland Security.

22 “(11) The Secretary of Education.”; and

23 (D) in paragraph (13) (as redesignated by
24 subparagraph (B) of this paragraph), by insert-

1 ing “, in consultation with other members of
2 the Council” at the end before the period.

3 (2) MEETINGS.—Subsection (d) of such section
4 is amended to read as follows:

5 “(d) The Council shall meet not less than 2 times
6 a year. For the purposes of conducting business, each
7 member of the Council may appoint a designee to rep-
8 resent such member during one or more meetings of the
9 Council.”.

10 (3) INVOLVEMENT OF FEDERAL AGENCIES AND
11 DEPARTMENTS.—Subsection (e) of such section is
12 amended by adding at the end the following new
13 paragraph:

14 “(4) Members of the Council shall provide the Cor-
15 poration for Travel Promotion with timely information re-
16 garding documentation and procedures required for ad-
17 mission to the United States and regarding strategies
18 planned by any Federal department or agency to promote
19 travel to the United States for tourism, business, study,
20 scholarship, scientific exchange, or other purposes, so that
21 the Corporation for Travel Promotion may better conduct
22 its communications and promotion activities.”.

23 (4) ANNUAL REPORT.—Subsection (g)(3) of
24 such section is amended by striking “United States

1 National Tourism Organization” and inserting “Cor-
2 poration for Travel Promotion”.

3 (5) APPLICABILITY OF FEDERAL ADVISORY
4 COMMITTEE ACT.—Subsection (h) of such section is
5 amended by striking “President of the United States
6 National Tourism Organization” and inserting
7 “President of the Corporation for Travel Pro-
8 motion”.

9 (c) REPEAL OF AUTHORITIES RELATING TO THE
10 UNITED STATES TRAVEL AND TOURISM PROMOTION AD-
11 VISORY BOARD.—Section 210 of the Department of Com-
12 merce and Related Agencies Appropriations Act, 2003
13 (contained in title II of division B of Public Law 108–
14 7; 117 Stat. 78–79; 22 U.S.C. 2122 note) is amended—
15 (1) by striking subsections (b) through (d); and
16 (2) by redesignating subsection (e) as sub-
17 section (b).

18 **SEC. 9. DEFINITIONS.**

19 In this Act, the following definitions apply:

20 (1) BOARD.—The term “Board” means the
21 board of directors of the Corporation.

22 (2) CORPORATION.—The term “Corporation”
23 means the Corporation for Travel Promotion estab-
24 lished by section 2.

1 (3) FUND.—The term “Fund” means the Trav-
2 el Promotion Fund established by section 4.

3 (4) SECRETARY.—Except as otherwise expressly
4 provided, the term “Secretary” means the Secretary
5 of Commerce.

6 **SEC. 10. G.A.O. STUDY.**

7 (a) IN GENERAL.—Not later than 90 days after the
8 date of enactment of this Act, the Government Account-
9 ability Office shall initiate a study to assess barriers to
10 entry into the United States by foreign travelers. The
11 GAO shall consult with the Department of Homeland Se-
12 curity, including U.S. Immigration and Customs Enforce-
13 ment and Customs and Border Protection, the Depart-
14 ment of Commerce, and the Department of the Treasury,
15 as necessary.

16 (b) REPORT.—Not later than 1 year after the date
17 of enactment of this Act, the GAO shall report the find-
18 ings to the appropriate Congressional committees. The re-
19 port shall include—

20 (1) the GAO’s findings on specific barriers to
21 entry into the United States by foreign travelers;
22 and

23 (2) recommendations for initiatives that may
24 reduce those barriers.

